THE HON'BLE SRI JUSTICE K.C. BHANU

On Friday, the twenty third day of September

Two thousand and five.

W.P. NO.16505 of 2005

Shaik Ahmed Ifran @ Irfan Chavoosh

…….Petitioner.

And

The Deputy Commissioner of Police, South

Zone, Hyderabad & another.

…….Respondents.

O R D E R:

This writ petition is filed by the petitioner, seeking declaration of the action of the respondents in opening the rowdy sheet against him, as illegal.

2) The case of the petitioner, in brief, is as follows: The petitioner is doing finance business having licence and that he used to lend loans to the needy customers and that in the course of such transactions some of the crimes have been registered by the police against the petitioner in Cr.No.2 of 2005 and Cr.No.113 of 2005. The petitioner contended that the police foisted false cases against him. Persistent enquiries, the petitioner was informed that a rowdy sheet has been opened against him, initially, in Reinbazar Police Station and police asked him to furnish a photograph for displaying the same on the notice

board and further directed him to attend before the police station, once in a week, and has to sign the register, in the presence of Sub Inspector of Police. The petitioner pleads that the action of the respondents is wholly illegal, arbitrary and is violation of Article 21 of the Constitution of India and the respondents have not furnished the reasons for opening a rowdy sheet purporting to exercise the powers under the Standing Order 742 and 894(2)(a) of the A.P.Police Standing Orders. The respondents have got no power to open the rowdy sheet only on the ground that a person is involved in a criminal case without any valid reasons. The petitioner further pleads that he is a peace loving person and as such opening the rowdy sheet against him would amount to misuse of powers by the police and prayed to allow the writ petition.

3) *Inter alia* the respondents filed counter affidavit, denying the contentions raised in the affidavit filed by the petitioner and further contending that the petitioner is a rowdy element and always bent upon causing breach of peace in the area and so that the rowdy sheet is opened against him on 5.7.2005 by the Inspector of Police on the instructions of the Deputy Commissioner of Police. Further there were cases registered against the petitioner which are pending in Crime No.2 of 2005, dated 2.1.2005 under Sections 342, 384, 506 r/w 34 IPC was registered and which is pending trial vide C.C.No.216 of 2005, wherein the complainant alleged that the petitioner wrongfully confined him in the office of the petitioner and threatening with dire consequences. The another crime No.53 of 2005 dated 30.3.2005, under Section 384 and 506 IPC is also registered basing on the complaint given by Md.Akber, alleging that the petitioner was harassing and forcibly snatched the amount from his pocket and threatened with dire consequences and also the Crime No.113 of 2005 dated 13.6.2005, dated 13.6.2005 was registered under Section 307 IPC and Section 27(1) of Indian Arms Act, 1959. The respondents further contended that in view of the involvement of the petitioner in the above said crimes, the rowdy sheet is opened and as such the same cannot be termed as illegal. Hence prayed to dismiss the writ petition.

4) The learned counsel for the petitioner contended that the respondents have not given any reason for opening rowdy sheet and none of the conditions

contained in Police Standing Order 742, would attract and therefore, he prays to allow the writ petition.

5) On the other hand, it is contended by the learned Government Pleader for Home that the opening of rowdy sheet against the petitioner is strictly in accordance with the provisions of the Andhra Pradesh Police Standing Orders as the unlawful activities of the petitioner were causing breach of peace in the area and therefore, there are no grounds to interfere with the impugned proceedings.

6) The rowdy sheet was opened against the petitioner on 5.7.2005, by the Inspector of Police, on the instructions of the Deputy Commissioner of Police. The Crime No.2 of 2005, dated 2.1.2005 under Sections 342, 384, 506 r/w 34 IPC was registered and which is pending trial vide C.C.No.216 of 2005 on the file of the Court of Metropolitan Magistrate, Hyderabad, wherein the complainant alleged that the petitioner wrongfully confined him in the office of the petitioner and threatening with dire consequences. A crime No.53 of 2005 dated 30.3.2005 under Section 384 and 506 IPC is also registered basing on the complaint given by Md.Akber, alleging that the petitioner was harassing and forcibly snatched the amount from his pocket and threatened with dire consequences. Crime No.113 of 2005 dated 13.6.2005 was registered under Section 307 IPC and Section 27(1) of Indian Arms Act, 1959.

7) The contention of the petitioner is that police foisted the false cases. It is too early to decide whether the false cases or true cases, it is the competent to Court to decide the matter since they are pending. The Standing Order 742 of A.P.Police Standing Orders provides for opening of rowdy sheet and classification of the rowdies, which reads thus:

> **S.O.742, Rowdies**:- (1) The following persons may be classified as rowdies and rowdy sheets (Form 88) may be opened for them under the order of the Superintendent of Police or Sub-Divisional Officer.
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> a. Persons who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace.

b. Persons bound over under Sections 106, 107, 108(c) and 110(1) of the Code of Criminal Procedure 1973 (Art.No.2 of 1974)

c. Persons who have been convicted more than once in two consecutive years under Section 75 of the Madras City Police Act or under Section 32, Clause 12 of the Town Nuisance Act.

d. Persons who habitually tease women and girls by passing indecent remarks or otherwise; and

e. In the case of rowdies in an area under one police station but are found to be frequently visiting the area under or more other police stations their rowdy sheets can be maintained at all such police stations.

8) According to the learned counsel for the petitioner, none of the above conditions attracts so as to open rowdy sheet. The condition (a) is relevant that the police can open a rowdy sheet, when the commission of offence involving breach of peace. In respect of the first crime, where confining the complainant therein, in the petitioner's office and threatening with dire consequences. In respect of second crime, where forcibly snatching the amount from the pocket of the complainant therein by the petitioner. In respect of the third crime, where the petitioner has fired four rounds on one Hussain Khan, causing profuse bleeding injuries. Unless that there is failure to exercise a discretion and excess or abuse of discretionary power, normally this court will not interfere with the same. The authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorized to do. The Police Standing Order 742 clearly provides that a person who habitually commit, attempt to commit or abet the commission of offences involving a breach of peace, certainly a rowdy sheet can be opened. Whether the act of the recipient would amount to a breach of peace in the locality is the subjective satisfaction for the police to open the rowdy sheet. One of the case registered under Section 307 IPC and Section 27(1) of the Indian Arms Act, 1959 is that the petitioner has fired four rounds, even though against a particular individual, definitely, it would cause breach of peace in the locality. On an earlier occasions also the petitioner involved in other cases. Basing on the cases and also severity of the cases, the police open rowdy

sheet, the same cannot be said to be discriminatory or arbitratory. When the two views are possible, one is favouring with the incident may not likely cause breach of peace and another is the incident would cause breach of peace in the locality and the particular view was adopted by the police, the same cannot be substituted by taking a different view by this Court in exercising the powers under Article 226 of the Constitution of India.

9) The relief sought for in this writ petition is in the nature of mandamus which is specifically issued when there is a violation of legal right or statutory right of the petitioner. Opening of rowdy sheet in accordance with law, cannot be said to be violation of any right of the petitioner, the liberty of the person cannot be deprived of except in accordance with law. Therefore, no right of the writ petitioner is infringed, in view of the fact that the police have opened the rowdy sheet.

10) Hence the writ petition is devoid of merits and is dismissed. No costs.

Justice K.C.BHANU.

_____ September 2005.

BCS